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Pay Equity in Non-Union Workplaces

IS THE LAW WORKING FOR YOU?

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THE PAY EQUITY COMMISSION

Ontario

What is pay equity?

Pay equity is equal pay for work of equal value. The *Pay Equity Act* was made law in Ontario to narrow the wage gap that exists between women's and men's wages. This law requires your employer to compare the *value* of jobs usually done by women to the *value* of jobs usually done by men. If their value is equal or comparable, they must be paid the same.

Is pay equity the same as equal pay for equal work?

No. Equal pay for equal work means that if a woman and a man are doing the *same job* in the same organization, they must receive the same wage. If you have an equal-pay-for-equal-work complaint, call the Employment Standards Branch of the Ministry of Labour.

How does my employer do pay equity?

Your employer groups similar jobs into job classes. These job classes are classified as female-dominated, male-dominated or gender neutral. Accurate, complete job information is collected about female and male job classes.

Your employer then uses a job comparison system to evaluate women's and men's jobs. This system *must* be gender neutral, which means it cannot favour the work done in men's jobs over the work done in women's jobs. The system uses the collected job information to value each job class on the basis of four factors — skill, effort, responsibility and working conditions.

Once all job classes are valued, female job classes are compared to male job classes. If a female job class (e.g. secretary) is found to be equal or comparable in value to a male job class (e.g. service technician), they *must* be paid the same. If the male job class is paid more, the law requires the wage of the female job class to be increased.

There are three ways your employer can achieve pay equity:

1. The **job–to–job comparison method** is the direct method of comparing female and male job classes in the same organization. It directly matches female job classes to male job classes found to be of equal or comparable value in the same organization.

2. The **proportional value comparison method** is the indirect method of comparing female and male job classes in the same organization where there was no direct match for a female job class. It looks at the relationship between the value of work done and the compensation received by an appropriate group of male job classes, then applies that same relationship — or overall pay pattern — to the unmatched female job classes in the same organization.

3. The **proxy comparison method** is ONLY used by broader public sector organizations, if they cannot achieve pay equity using job–to–job or proportional value comparisons *and* if they have a review officer's order from the Pay Equity Commission. This method allows female job classes in one organization to be compared to female job classes that have achieved pay equity in another broader public sector organization offering similar services.

Am I covered by the *Pay Equity Act*?

You are covered by the *Act* if you work for:

- a broader public sector employer or
- a private sector employer with 10 or more employees

You are NOT covered if you work for:

- the federal government
- federally regulated companies such as broadcast stations and chartered banks
- private sector employers with fewer than 10 employees in Ontario as of January 1, 1988 (if these employers grow in size and have 10 or more employees, they must achieve pay equity for their employees immediately)

When does my employer have to do pay equity?

Your employer, by law, should have already done pay equity. Deadlines were determined by the size of your workplace and the comparison method used to achieve pay equity.

For job-to-job comparisons, the deadlines for posting plans and beginning pay equity adjustments were:

Employer	Posting Date for Plans	Paying First Adjustments
Public Sector	Jan. 1, 1990	Jan. 1, 1990
Private Sector		
500+ employees	Jan. 1, 1990	Jan. 1, 1991
100–499 employees	Jan. 1, 1991	Jan. 1, 1992
50–99 employees*	Jan. 1, 1992	Jan. 1, 1993
10–49 employees*	Jan. 1, 1993	Jan. 1, 1994

* Employers with 10 to 99 employees could choose to post a pay equity plan and phase in wage adjustments *or* to NOT post a plan and make *all* adjustments on this first pay equity adjustment date.

For proportional value comparisons (used after the *Act* was amended in 1993), the deadlines for posting these plans and starting proportional value adjustments retroactive to January 1, 1993 were:

Employer	Posting Date for Plans	Paying First Adjustments
Public Sector	Jan. 1, 1994	Jan. 1, 1994
Private Sector		
500+ employees	Jan. 1, 1994	Jan. 1, 1994
100–499 employees	Jan. 1, 1994	Jan. 1, 1994
50–99 employees	Jan. 1, 1994	Jan. 1, 1994*
10–49 employees	Jan. 1, 1994	Jan. 1, 1994**

* Private sector employers with 50 to 99 employees who chose to NOT post a plan must achieve pay equity retroactive to July 1, 1993.

** Private sector empoyers with 10 to 49 employees who chose to NOT post a plan must achieve pay equity by January 1, 1994. These wage adjustments are *not* retroactive to January 1, 1993.

All broader public sector employers using job-to-job or proportional value comparison *must* achieve pay equity by January 1, 1998.

For proxy comparisons (used after the *Act* was amended in 1993), your employer was required to re-post your pay equity plan by January 1, 1994 and begin pay equity adjustments to wages by July 1, 1994. These adjustments must be retroactive to January 1, 1994.

How do I know if my employer has done pay equity?

If your employer is required to post a plan, look for your pay equity plan at work. Your plan is the document that shows how your employer compared jobs in your organization and tells which job classes need wage adjustments to achieve pay equity. All plans should be posted in a prominent spot in the workplace where it can be seen and read by all employees.

If your employer is a private sector employer with 10 to 99 employees who chose to NOT post a plan, your employer *must* be able to prove to you that pay equity was achieved in your workplace. You have the right to ask your employer how pay equity was done. If you are not satisfied, you can complain to the Commission. Remember, not posting a plan means your employer *must* achieve pay equity by the first wage adjustment date (see page 4 for the schedule).

How much will I get in pay equity adjustments and when?

That depends on whether a pay gap has been identified for your female job class and what amount the pay gap is.

If your employer posted a plan, your employer is required to pay out each year a minimum of 1% of the last year's payroll in wage adjustments until pay equity is achieved. This 1% minimum must be shared among all female job classes that were found to be underpaid. The female job class with the *lowest* job rate must be given the highest pay equity adjustment until that job class is equal to the next lowest-paid female job class.

If your employer is a private sector employer with 10 to 99 employees who chose to NOT post a plan, your employer *must* make all pay equity adjustments by the first wage adjustment date (see page 4 for the schedule).

What should I look for in my plan?

All pay equity plans should contain the following:

- the name and address of your employer
- the establishment this plan applies to (this may be more than one workplace within the same county or regional municipality)
- the date the plan was posted
- the grouping of jobs into job classes by gender
- the female job classes covered by the plan
- a description of the method used to compare female job classes to male job classes
- the results of the comparison (a listing of female job classes and the male job classes they were compared to)
- any permissible differences
- adjustments to wages to achieve pay equity
- the schedule for paying out these adjustments to female job classes
- the name and phone number of the contact person for more information

If any of this information is missing or incorrect, talk to your employer or the Commission. If your employer has missed the posting deadline, you have the right to complain to the Commission.

What if my employer doesn't post a plan?

If you work for a private sector employer with 10 to 99 employees who did NOT post a plan, you have the right under the law to ask how pay equity was achieved in your workplace.

Your employer is not required to prepare a plan, although the Commission does recommend it. However, your employer *must* be able to prove to you that pay equity was achieved in your workplace. Otherwise, you can complain to the Commission.

What kinds of complaints can I make?

Here are some areas you should look at when assessing if pay equity was achieved in your workplace, whether a plan was posted or not. If you are not satisfied with the answers to these questions, you may have grounds to make a complaint to the Commission.

1. Job Class

A job class is a grouping of jobs with similar hiring procedures; similar duties and responsibilities; similar qualifications; and the same compensation, salary grade or range of salary rates.

Ask yourself:

- Was my job listed in the right job class according to this definition?
- Was my job class described in an accurate, complete way? Does the job class reflect what I do?
- Were other jobs listed in the right job class?

2. Gender of Job Classes

A job class is considered female, male or gender neutral according to the percentage of employees in that job class. If 60% of the employees are female, it's a female job class; if 70% are male, it's a male job class; if there are about the same number of female and males, it's gender neutral. You should also consider the gender of the employees who have done the work in the past and the gender which is usually associated with that kind of work. For example, the job of secretary or nurse would immediately be thought of as female.

Ask yourself:

- Was the decision about the gender of my job class correct?
- Were the decisions about the gender of other job classes correct? (For example, was a male job class which could have been used for comparison determined to be gender neutral?)

3. Job Comparison System

All female job classes in your workplace are compared to male job classes using a job comparison system that must be free of gender bias. The system uses the job information provided by you or a group of employees to value your female job class. You can ask for information from your employer to assess the job comparison system. If you cannot get the information you need, make a complaint to the Commission.

Ask yourself:

- Was accurate, complete information collected about my job class to value it properly?
- Was I involved in this process?
- Was *every* aspect of my job described using the four factors?
  - **Skill** — e.g., operating and maintaining several different types of office and manufacturing equipment; writing correspondence for others and proofreading and editing other people's work
  - **Effort** — e.g., repetitive keyboard movements; providing service to several people or departments and working to many simultaneous deadlines
  - **Responsibility** — e.g., acting on behalf of absent supervisors; assuming responsibility for errors
  - **Working Conditions** — e.g., working in a condition of constant, medium-grade level noise from phone calls, visitors, etc.; long periods of isolation

- Was my job evaluated fairly using a gender neutral job comparison system that valued women's and men's jobs properly? (For example, did the system give physical effort, which tends to favour men's jobs, a greater value in a work situation, such as in an office setting, where physical effort is not the main work of the organization?)
- Were other job classes evaluated fairly?
- Was my job class compared to an appropriate male job class?

4. Job Rate

Job rate is the highest rate of pay — the total of salary and benefits — for any job class.

Ask yourself:

- Did the job rates of male job classes include salary *and* benefits?
- Were male job rates lowered to achieve pay equity?

5. Permissible Differences in Wages

The law provides for *limited* circumstances where differences between the wages of female and male job classes are allowed. If you have any questions about the way permissible differences were used in your pay equity plan, call the Commission's hotline for information.

6. This Year's Adjustments to Wages

If your employer posted a plan, your employer must pay out a minimum of 1% of last year's annual payroll to close the wage difference between female and male job classes of equal or comparable value. Remember, if your employer did NOT post a plan, *all* pay equity adjustments must be made by the first wage adjustment date (see page 4 for the schedule).

Ask yourself:

- Was 1% of my employer's last year's annual payroll used for pay equity adjustments?
- Were adjustments made to the wages of *all* female job classes that were found to be underpaid?
- Was the female job class with the *lowest* job rate given the highest adjustment?

7. Maintaining Pay Equity

Your employer must follow your pay equity plan and pay out wage adjustments each year to every female job class that was found to be underpaid until pay equity is achieved. *All* employers — whether they posted a plan or not — *must* make sure that no new wage gaps appear in the workplace to ensure pay equity is maintained.

Ask yourself:

- Is my employer following the pay equity plan by increasing the wages of all underpaid female job classes?
- Has my work or workplace changed so much so that my pay equity plan is no longer appropriate? (For example, has the nature of your work changed substantially or has your organization merged with another company?)

Please note: If at *any time* you are being intimidated or discriminated against because you have used any of your rights under the *Pay Equity Act*, you can complain to the Commission.

If proportional value or proxy comparison was used, how do I assess if pay equity was achieved?

Ask yourself the same questions noted earlier. In addition . . .

With proportional value, ask yourself:

- Did my employer select the most appropriate group of male job classes to represent my workplace?
- Were some male job classes left out of the analysis that should have been included?

With proxy comparison, which applies to ONLY broader public sector organizations, ask yourself:

- Was the proxy employer appropriate? In my geographic area? (The *Act* sets out a schedule of similar organizations in different geographic areas for proxy comparisons.)
- Did the proxy organization post its pay equity plan before comparisons with my organization were made?
- Were the female job classes from the proxy organization similar to my female job class and others in my workplace?
- If there were no similar job classes, was a representative group of female job classes selected by the proxy employer?
- Were benefits included in the proxy organization's job rates?

What if I don't agree with the pay equity results in my workplace?

If your employer posted a plan, you have 90 days after the pay equity plan has been posted to discuss and bring forward any problems to your employer. Keep a record of phone calls and notes of meetings relating to your complaint. This information may be helpful when a review officer investigates your case.

After the 90-day period, your employer will look at the comments and concerns made by you and other employees. Within 7 days, your employer must post a revised plan *or* a notice stating whether or not the plan has been amended. You have 30 days after the revised plan or notice is posted to complain to the Commission.

If you work for a private sector employer with 10 to 99 employees who did NOT post a plan, ask your employer how pay equity was achieved in your workplace. Although your employer is not required to do a plan, he/she *must* be able to prove to you that pay equity was achieved in your workplace. You can ask for information even after the legislated adjustment date has passed.

How do I talk to my employer about pay equity?

Before you talk to your employer about pay equity, learn as much as you can about pay equity and how it affects your job and your workplace. Here are some suggestions:

- Read any material on pay equity your employer has provided, such as company newsletters about pay equity.
- Discuss your concerns with other workers. Maybe all of you have been worrying about the same things. Ask them if they would meet your employer with you.
- Call the Pay Equity Commission's toll-free hotline and ask for information (telephone numbers are on the back of this brochure).
- Ask for a copy of the Commission's one-page sample plan, which shows you what to look for in a pay equity plan.
- Make copies of your pay equity plan (if one was posted) and your job description, and study them.
- Write down your questions or concerns. You might want to practise explaining your point of view with someone who will ask questions and help you in your presentation.

Can I complain to the Commission if I didn't talk to my employer first?

Yes. You can still file a complaint with the Pay Equity Commission. However, if it is possible, try to talk to your employer first.

If my employer doesn't address my concerns, how do I file a complaint?

There are several ways to file a complaint:

- You can call the Commission's hotline. The counsellors can take the information from you over the phone and fill in the complaint form for you. If your concerns are not a pay equity issue, the counsellors might refer you to another agency, such as the Employment Standards Branch of the Ministry of Labour or the Human Rights Commission.
- You can call or write to the Commission for a copy of the "Application for Review Services" form. This form is also available at district offices of the Ministry of Labour.
- You can write a letter of complaint and mail or fax it to the Commission.

For the Commission's hotline numbers, address and fax number, see the back of this brochure.

What information does the Commission need for a complaint?

Whether you call, fill in the form or write a letter to file a complaint, the following is needed:

- your name (if you want to give it)
- the address and phone number (business or home) where you can be contacted
- the name of your employer
- the name and phone number of the person who signed the pay equity plan (usually your employer or the personnel department)
- what the complaint is about

Although documentation is not needed when you file a complaint, it would be helpful to have some information available when a review officer calls. This could include a copy of your pay equity plan (if a plan was posted), your job description and any pay equity questionnaires your employer asked you to complete.

Does my employer have to know if I have filed a complaint?

Not if you don't want your employer to know. You can appoint an agent or a spokesperson, such as a friend, relative, co-worker, supervisor or lawyer, to act on your behalf.

You can also complain as a group. Just write the name of the person to contact or spokesperson on the "Application for Review Services" form. The rest of the names can be attached on a list or kept until a review officer contacts you.

How does the Commission investigate my complaint?

The Commission assigns a review officer to your case, who calls you or your agent to ask for any information that may be missing from your application form. The review officer discusses your complaint with you and goes over the choices you have. At this point, you can continue with the complaint, decide to drop it or appoint an agent to represent you.

The review officer always calls you first, before calling your employer, and will not speak to your employer without your permission. If you wish to remain anonymous, he/she will tell you how this is done. The review officer then discusses the complaint with your employer and tries to reach an agreement between the two of you.

What if my employer and I can't reach an agreement?

If you and your employer cannot reach an agreement, the review officer has the power to write an order to resolve the complaint. If your organization posted a plan, your employer must post a new pay equity plan reflecting the order or settlement. If your company did not post a plan (a private sector employer with 10 to 99 employees), your employer must still abide by the review officer's decision.

What if I don't agree with the review officer's order?

If either you or your employer do not agree with an order made by the review officer, then you or your employer can request a hearing before the Pay Equity Hearings Tribunal. If neither one of you makes this request, both you and your employer must follow the order.

Where do I call if I have more questions?

If you have any questions that were not answered in this brochure or if you have any concerns about pay equity in your workplace, please call the Pay Equity Commission. Remember, the sooner you call, the sooner you will know whether pay equity is working for you.

Pay Equity Commission Information Hotlines:

Ontario-wide (toll free)
1-800-387-8813

Toronto area
(416) 481-3314

Please send your completed "Application for Review Services" form or letter by mail or fax to:

Case Co-ordinator
Pay Equity Commission
150 Eglinton Avenue East, 5th Floor
Toronto, Ontario M4P 1E8

Fax: (416) 314-8742

L'équité salariale dans les milieux de travail non syndiqués: La Loi vous protège-t-elle? est également disponible en français.

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